

1998 ANNUAL REPORT
INDIANA JUDICIAL NOMINATING COMMISSION
COMMISSION ON JUDICIAL QUALIFICATIONS
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The Indiana Judicial Nominating Commission and the Indiana Commission on Judicial Qualifications is a seven-member commission which performs two distinct functions within the judiciary. The Nominating Commission solicits and interviews applicants to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court, and selects three candidates for each vacancy whose names are sent to the Governor for the Governor's selection of one nominee to fill the vacancy. Also, the Nominating Commission certifies former judges as Senior Judges to help Indiana courts with their demanding caseloads.

The Qualifications Commission investigates allegations of ethical misconduct against Indiana judges, judicial officers, and candidates for judicial office, and, when appropriate, prosecutes misconduct cases which ultimately are resolved by the Supreme Court. Additionally, the Commission has an educational role within the judiciary, and offers informal or written advisory opinions about judicial ethics.

The Chief Justice of Indiana, Randall T. Shepard, is the *ex officio* Chairman of the Commission. Other Commission members serving in 1998 were Charles Berger, Esq., Evansville; Judy Johns Jackson, Columbus; Douglas Hill, Esq., Indianapolis; Benton Marks, Indianapolis; Daniel Roby, Esq., Fort Wayne; and Anne Faherty, South Bend. The Commission met in Indianapolis on nine occasions in 1998.

Four vacancies on the Court of Appeals were filled in 1998. In February, Governor O'Bannon appointed the Honorable Lloyd Mark Bailey, former judge of the Decatur Superior Court, to succeed Judge Jonathan J. Robertson from the First District of the Court of Appeals, who

retired in December, 1997. Judge Bailey had been nominated by the Commission in 1997, along with Judge Stephen R. Heimann, Bartholomew Circuit Court, and Judge Walter H. Palmer, Gibson Circuit Court.

The resignation of Judge Linda L. Chezem on December 31, 1997, left a vacancy on the Fourth District. In February, after interviewing the twelve applicants and six semi-finalists, the Commission nominated Evansville attorney Melissa Sue Mattingly, Judge Stephen R. Heimann, Bartholomew Circuit Court, and Bloomington attorney Susan Huber Nelson. The Governor appointed the Honorable Melissa Sue Mattingly in April. Also in April, the Commission interviewed the fifteen applicants for the vacancy created by the resignation of Judge Betty Barteau from the Fifth District of the Court of Appeals. After interviews of seven semi-finalists, the Commission nominated Indianapolis attorney Julia Blackwell Gelinas, Judge Jane Magnus-Stinson, Marion Superior Court, Criminal Division 6, and Lafayette attorney Margret G. Robb. In July, the Governor appointed the Honorable Margret G. Robb.

Also in July, 1998 the Commission interviewed nine applicants for the vacancy created by the retirement of Judge George B. Hoffman, Jr., from the Third District. The Commission then nominated Judge Sanford M. Brook, St. Joseph Superior Court, Judge Nancy Harris Vaidik, Porter Superior Court 4, and Judge Thomas W. Webber, Sr., Porter Superior Court 2. The Governor appointed the Honorable Sanford M. Brook, St. Joseph Superior Court, in October.

Finally, the Nominating Commission certified eleven new Senior Judges, and recertified fifty-five existing Senior Judges in 1998.

In 1998, the Qualifications Commission considered two hundred sixty complaints or allegations of judicial misconduct. One hundred ninety-six complaints, or about seventy-five percent, were dismissed as not raising substantial issues of misconduct or as outside the Commission's

purview. The number of active investigations in 1998 nearly doubled over the previous year, with sixty-one Commission inquiries or formal investigations, requiring the judges or candidates to respond in writing to the allegations. Twelve of those cases were dismissed with findings that no misconduct occurred, and in thirty-four instances, the judges or candidates received private cautions or directives from the Commission. Five of these were dismissed without prejudice, indicating formal charges were imminent if the misconduct recurred. Two Commission cases were resolved in 1998 when the Supreme Court disbarred a judge prosecuted by the Commission in 1997. Matter of Edwards, 694 N.E.2d 701 (Ind. 1998). Sixteen Commission cases were pending at the end of the year.

Throughout 1998, the Commission and its counsel were available to judges and candidates to help them resolve their ethical dilemmas. Three formal advisory opinions were published, and counsel responded to over three hundred requests for advice from judges and candidates. She participated in panel discussions about judicial ethics, and represented the Commission at the 1998 meeting of the Association of Judicial Disciplinary Counsel in Portland, Oregon.